

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

CORIELLE JOHNSON,

Plaintiff,

Case No. 2:13-CV-260

v.

HON. ROBERT HOLMES BELL

WILLIAM JONDREAU, et al.,

Defendants.

**ORDER APPROVING AND ADOPTING
MAGISTRATE JUDGE’S REPORT AND RECOMMENDATION**

On July 22, 2014, United States Magistrate Judge Timothy P. Greeley issued a report and recommendation (“R&R”) recommending that Defendants’ motion for summary judgment (ECF No. 16) be denied, and that Plaintiff’s motion for discovery (ECF No. 24) be denied as moot. (R&R, ECF No. 43.) Defendants filed objections to the R&R on August 1, 2014. (ECF No. 48.)

This Court is required to make a de novo determination of those portions of the R&R to which specific objection has been made, and may accept, reject, or modify any or all of the Magistrate Judge’s findings or recommendations. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). “[A] general objection to a magistrate’s report, which fails to specify the issues of contention, does not satisfy the requirement that an objection be filed. The objections must be clear enough to enable the district court to discern those issues that are dispositive and

contentious.” *Miller v. Currie*, 50 F.3d 373, 380 (6th Cir. 1995).

The MDOC Defendants object to the R&R’s conclusion that they did not properly support their motion for summary judgment based on a failure to exhaust remedies. Defendants contend that the MDOC Step III Grievance Report they filed with their motion for summary judgment was sufficient to show that Plaintiff did not file Step III grievances in the three grievances he has identified: AMF-13-02-520-17c, AMF-13-02-41-03f, and AMF-13-03-486-17a. Defendants contend that because those grievances do not appear on the verified Step III Grievance Report, they satisfied their burden of showing that Plaintiff failed to exhaust these grievances. In support of this argument Defendants cite the recent unpublished decision in *Ward-El v. Luckey*, No. 13-2515 (6th Cir. June 18, 2014).

As the Magistrate Judge noted, Defendants did not respond to Plaintiff’s claims despite having the opportunity to file a reply. Now, in response to the R&R, Defendants have presented new arguments in response to Plaintiff’s claims. Absent compelling reasons, a party is not allowed to raise at the district court stage new arguments or issues that were not presented to the magistrate judge. 28 U.S.C. § 631 et seq.; *Murr v. United States*, 200 F.3d 895,902 (6th Cir. 2000) (citing *United States v. Waters*, 158 F.3d 933, 936 (6th Cir. 1998)). Based on the evidence and arguments that were presented to the Magistrate Judge, the Court agrees with the Magistrate Judge that denial of Defendants’ motion for summary judgment was proper. Accordingly,

IT IS HEREBY ORDERED that Defendants' objections to the R&R (ECF No. 48) are **OVERRULED**.

IT IS FURTHER ORDERED the July 22, 2014, R&R of the Magistrate Judge (ECF No. 43) is **APPROVED** and **ADOPTED** as the opinion of the Court.

IT IS FURTHER ORDERED that Defendants' motion for summary judgment (ECF No. 16) is **DENIED**.

IT IS FURTHER ORDERED that Plaintiff's motion for discovery (ECF No. 24) is **DENIED AS MOOT**.

Dated: August 20, 2014

/s/ Robert Holmes Bell
ROBERT HOLMES BELL
UNITED STATES DISTRICT JUDGE